

RESPONSE TO RESISTANCE & USE OF FORCE

**WINOOSKI POLICE DEPARTMENT
GENERAL ORDER**

SUBJECT: Response to Resistance & Use of Force

NUMBER: G.O. # 69

EFFECTIVE DATE: 02/01/20

REVIEW DATE: 01/07/20

AMENDS/SUPERSEDES: Response to resistance 01/16

APPROVED: RMH

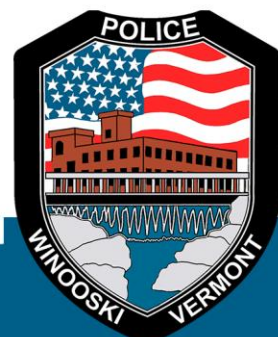
NOTE: This General Order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in any evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

I. Purpose: The purpose of this policy is to direct officers in the appropriate response to resistance and other uses-of-force.

I. Policy: The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events and other uses-of-force. It is the policy of this department that officers will use only reasonable force to bring an incident or event under facilitate control. All responses to resistance and uses-of-force must be objectively reasonable.

II. Definitions:

- A. Deadly Force:** Any force that creates a substantial likelihood of causing serious bodily harm or death.
- B. Non-Deadly Force:** All uses of force other than those that is likely to cause serious bodily harm or death.
- C. Imminent:** Impending or about to occur.

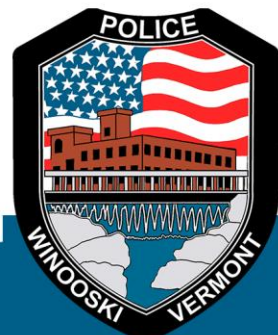


RESPONSE TO RESISTANCE & USE OF FORCE

- D. Objectively Reasonable:** The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented with.
- E. Reasonable Belief:** Reasonable belief means that the person concerned, acting as a reasonable person, believes that the prescribed facts exist.
- F. Serious Bodily Harm/Injury:** Serious bodily injury shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.
- G. Active Resistance:** A subject using physical activity to resist or takes an affirmative action to defeat an officer's ability to facilitate custody or to seize him/her, but the subject's actions would not lead a reasonable officer to perceive a risk of physical injury to him/herself, the subject, or a third person. Examples of active resistance include pulling away, escaping or fleeing, struggling and not complying on physical contact, or other energy enhanced physical or mechanical defiance. Refusing to move upon verbal direction or chaining oneself to an object or applying "dead weight" does not constitute active resistance.
- H. Conducted Electrical Weapon: SEE SUPPLEMENTAL CEW POLICY**
- I. Active Aggression:** Behavior that creates an imminent risk of physical injury to the subject, officer, or third party, but would not lead a reasonable officer to perceive a risk of death or serious bodily injury. Examples include an attack on an officer, strikes, wrestling, undirected strikes with injury potential, kicking, shoving, punching, and other words or behavior indicating that such actions are imminent

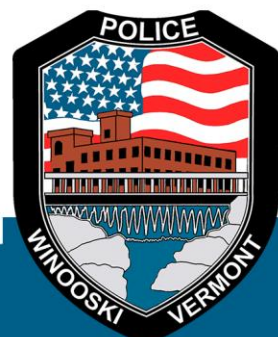
III. Procedure:

- A.** In determining the appropriate level of response to a subject's resistance an officer should consider:
- a.** How serious is the offense or situation the officer perceived at the time force was used?
 - b.** What was the physical threat to the officer or others?
 - c.** Was the subject actively resisting or attempting to evade arrest by flight?



RESPONSE TO RESISTANCE & USE OF FORCE

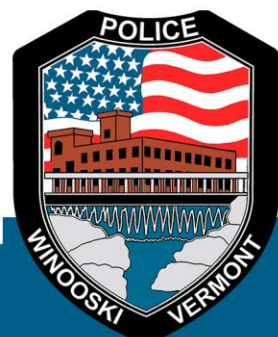
- B. Force Options:** Officers have several force options that will be dictated by the actions of the suspect upon the appearance of the police officer. Officers may be limited in their options due to the circumstances and actions of the subject. For example, an officer who immediately observes a subject with a firearm unjustifiably threatening another may immediately respond with deadly force without considering other force options.
- a. Command Presence:** Visual appearance of officer where it is obvious to the subject due to the officer's uniform or identification that the officer has the authority of law.
 - b. Verbal Commands:** Words spoken by the officer directing the subject as to the officer's expectations.
 - c. Soft Empty Hand Control:** Officer's use of hands on the subject to direct the subject's movement; Techniques that have a low potential of injury to the subject.
 - d. OC Spray:** Where subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.
 - e. Conductive Electronic Weapons:** Where subject exhibits some level of active resistance/active aggression an officer may use a Conductive Electronic Weapon to temporarily incapacitate the subject. SEE SUPPLEMENTAL CEW POLICY
 - f. Hard Hand Control:** Physical strikes that have the possibility of creating mental stunning and/or motor dysfunction and anatomical control techniques with a greater risk of potential injury.
 - g. Batons:** Batons may be used to gain anatomical compliance during active resistance and may be used defensively and offensively when active aggression/assaultive actions are perceived.
 - h. Canine:** Use of canine to bite and hold subject to prevent escape or to gain control of a subject who is actively aggressing toward officer(s) or others. Prior to deployment of a canine, a warning in the form of an announcement shall be made. Canines may be deployed during some instances of active resistance when a greater threat is perceived.
 - i. Deadly Force:** Any force that creates a substantial likelihood of causing serious bodily harm or death
 - j. Neck Restraint:** Any neck restraint technique should be used under circumstances that warrant the use of lethal force. Neck restraints are only to be used by an officer who has



RESPONSE TO RESISTANCE & USE OF FORCE

been properly trained by a Ground Fighting Instructor, certified through the Vermont Criminal Justice Training Council

- C. Deadly Force:** The use of deadly force is objectively reasonable when:
- a.** The officer is faced with an imminent threat of serious bodily harm or death to him/herself, or some other person who is present, or;
 - b.** To prevent the escape of an individual in cases where the officer has probable cause to believe that the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death AND by the subject's escape they pose an imminent threat of serious bodily harm or death to another.
 - c.** Officers should warn the subject prior to using deadly force where feasible.
- D.** Once the subject's resistance has ceased and control has been gained an officer is no longer authorized to use force. Officers should immediately provide any necessary medical assistance to the subject to the degree to which they are trained and provide for emergency medical response where needed.
- E. Discharge of Firearms Restrictions:**
- a.** Warning shots are prohibited.
 - b.** Discharge of firearms is prohibited when the officer is presented with an unreasonable risk to innocent third parties.
 - c.** When a moving vehicle is involved, use of deadly force by discharging a firearm is dangerous, can be ineffective, and should not occur when there is an unreasonable risk to the safety of persons other than the subject. Whenever possible, officers should avoid placing themselves in a position where use of deadly force is the only alternative.
 - d.** Even when deadly force is justified, firearms shall not be discharged at a vehicle unless:
 - i.** The officer has a reasonable belief that an occupant of the vehicle poses an imminent threat of death or serious physical injury to the officer or another person, or
 - ii.** The officer has a reasonable belief that an occupant is using the vehicle in a manner that poses an imminent threat of death or serious physical injury to the officer or another person, and there is no avenue of escape.



RESPONSE TO RESISTANCE & USE OF FORCE

- iii. Officers shall consider the potential threat to innocent third parties under such circumstances.

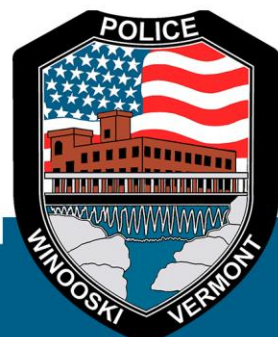
F. Less-Lethal Weapons/Tactics: Prior to deployment of any less-lethal weapon, officers must be trained and certified in the proper use of the weapon from both the technical and legal aspects. All deployments must be consistent with departmental use of force training and policy.

a. OC Spray:

- i. **OC Spray shall not be deployed as a compliance technique for a person who is passively or verbally non-compliant. Active resistance/active aggression shall be required.**
- ii. Chemical Spray shall never be used as a punitive measure.
- iii. Officers should avoid spraying from a close distance due to the potential for eye injury as a result of the pressurized stream. Officers should avoid spraying directly into a subject's eyes from closer than two feet or the distance recommended by the manufacturer of the spray (whichever is shorter).
- iv. Officers shall consider alternatives to OC spray when attempting to control a subject in a crowded-enclosed area due to micro particulate migration that may cause the onset of panic.
- v. Officers shall consider alternatives to OC spray when the event is inside a building, particularly where the building has a closed-ventilation system due to the potential impact on innocent persons who may have to be evacuated (temporarily) from the locations.
- vi. Once control is gained, officers should immediately provide for the decontamination of the subject.
- vii. If the person shows any signs of physical distress or does not recover in a reasonable amount of time, officers should immediately direct an emergency medical response and render first-aid at the degree for which they are trained.

b. Conducted Electrical Weapon : SEE CEW SUPPLEMENTAL POLICY

Additional Documentation:

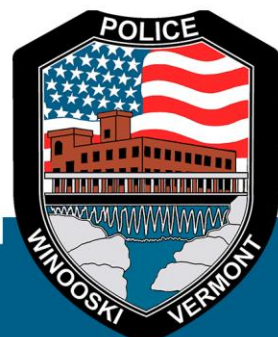


RESPONSE TO RESISTANCE & USE OF FORCE

1. With the exception of the required spark test and accidental discharges that do not connect with any living being, each time a CEW is deployed and/or displayed it shall be documented in a use of force report within 24 hours of the deployment unless otherwise authorized by a supervisor
- c. Batons:** Batons, ASP/Expandable Baton
- i. Batons may be used to gain anatomical compliance during active resistance and may be used defensively and offensively when active aggression/assaultive actions are perceived.
 - ii. Officers shall not intentionally strike a person in the head, or other areas of the body where serious bodily injury could occur, with an impact weapon unless deadly force is justified.
- d. Immediate measure of defense** - When reasonable, an officer may take action or use any object to defend the officer's life or safety, or the life or safety of another, with objects or devices not normally intended to be weapons or issued as public safety equipment.

G. WEAPONS:

- A. Duty weapon - While on duty, an officer shall carry a department issued or approved weapon. The department shall issue ammunition for the weapon.
1. Any officer who wishes to carry a personally owned weapon on duty must request permission, in writing, from the chief of police. Weapons must be inspected and approved by the range instructor/armorer. In addition, the weapon must fire department approved ammunition and the officer must qualify with the personally owned weapon.
 2. The chief of police shall maintain a record of all weapons used by officers on duty. The record shall list weapon descriptions, ammunition type issued, date of issue, and information pertaining to qualifications. Officers shall annually review the records to ensure that they are up to date.



RESPONSE TO RESISTANCE & USE OF FORCE

3. Officers who have consumed alcoholic beverages shall not carry or use a firearm while on duty.

B. Officers are encouraged, but not required to carry a handgun when off duty. An officer who elects not to carry a handgun when off duty shall not be subject to disciplinary action if an occasion should arise in which they could have taken police action if they were armed. Exception: Off-duty officers while operating a department vehicle shall be armed with an approved weapon.

1. Officers who carry off-duty weapons must understand that in some social situations, e.g., sports, the carrying of a firearm would be inappropriate.

2. Any officer who has consumed alcoholic beverages shall not use a firearm (off duty weapon) under any circumstances.

C. Qualification:

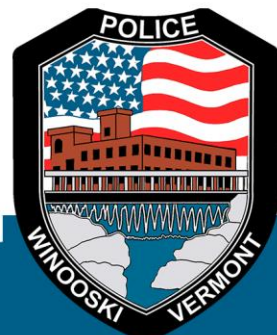
No officer shall carry or use on duty any type of firearm, impact/control weapon or O.C. unless they have both received training in the use of the type of weapon and demonstrated proficiency in its use and are currently qualified to do so.

IV. Reporting Response to Active Resistance/Uses-Of-Force:

- A. Purpose:** It is the purpose of this policy to provide police employees and supervisors with guidelines for reporting response to active resistance and uses-of-force. The department will develop a Use-Of-Force form to capture all required information described in this policy.
- B. Policy:** Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, take into custody, defend against assault, and prohibit flight. This policy mandates that members of the Department accurately, completely and timely report uses-of-force and a supervisor conducts a prompt investigation and reports the findings.

V. Definitions:

- A. Reportable Response to Active Resistance/Uses-of-Force:** Verbal commands, soft-empty hand control, and handcuffing do not require a separate reporting form. The following are reportable force options when used by an officer to compel compliance from a subject in



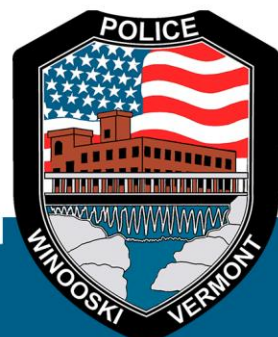
RESPONSE TO RESISTANCE & USE OF FORCE

conformance with the officer's official duties, whether on or off duty or while employed in an off duty paid detail, include:

- a. OC Spray:** Where subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.
- b. Conducted Electrical Weapon:** Where subject exhibits some level of active resistance/active aggression an officer may use a Conducted Electrical Weapon to temporarily incapacitate the subject. (See additional documentation-(CEW section)
- c. Hard Hand Control:** Physical strikes that have the possibility of creating mental stunning and/or motor dysfunction and anatomical control techniques with a greater risk of potential injury.
- d. Impact Weapons:** Batons may be used to gain anatomical compliance during active resistance and may be used defensively and offensively when active aggression/assaultive actions are perceived. Immediate measures of defense are to be included in this category as well.
- e. Pointing of Firearms:** Any time an officer points a firearm at an individual, notwithstanding the fact that deadly force is not ultimately deployed. This does not include drawing a firearm and maintaining at the low-ready position.
- f. Firearms discharges:** Any discharge of a firearm other than at the range or during qualification whether unintentional, for animal dispatch, or whether a subject is hit or not will be reported in a separate manner consistent with these policies.
- g. Canine use:** Use of a police canine will be reported on a special form to capture any form of use whether there is contact with a subject or not.
- h. Deadly Force:** Force that creates a substantial likelihood of causing serious bodily harm or death.

B. Procedures:

- a.** Officers who become involved in an incident that required any reportable force option are required to immediately, or as soon as reasonably practicable, notify their supervisor. The involved officer will provide a detailed documentation of the use of force utilized in the official police report prepared for the incident involved.



RESPONSE TO RESISTANCE & USE OF FORCE

- b.** A Use-of-Force Report (UOFR) form shall be prepared by the involved officers whenever an officer of this agency utilizes reportable force, as described in the definition of this policy, in the performance of their duties.
 - c.** The UOFR form will be completed in detail including a narrative account of the following:
 - i.** The actions of the subject that necessitated use of force.
 - ii.** The reasons why force was required and the type of force the officer utilized.
 - iii.** Any injuries or complaint of injuries of either the subject or the officer and any medical treatment received.
 - iv.** If known property damage occurred during a use-of-force.
- C. Supervisory Responsibilities:** Once notified of an incident in which an officer has utilized force, the supervisor, to the extent that one is available, will immediately respond to the scene to investigate the incident. If the involved officer's supervisor is not available to respond, another supervisor will be dispatched to complete the UOFR. The supervisor will accomplish the following investigative steps in conducting the investigation:
 - a.** Interview the involved subject if they are cooperative, to determine their account of the incident. If they expressly indicate they have a complaint the supervisor shall complete a Public Service Report. If they have any type of injury, Internal Affairs or the designated departmental IA person will be notified. Additionally, should the supervisor determine that unreasonable force was utilized, the Internal Affairs designated investigator will be notified and assume control of the response to resistance investigation.
 - b.** If a crime scene exists, or police equipment exists, which may contain forensic evidence, the supervisor shall ensure that the scene and evidence is processed, photographed and preserved.
 - c.** Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
 - d.** Interview, preferably recorded, all witnesses to the incident and document their description of the event.
 - e.** Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.

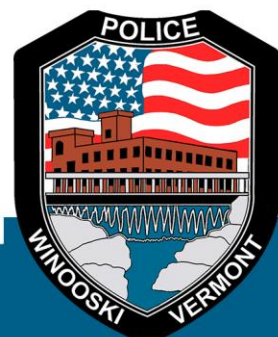


RESPONSE TO RESISTANCE & USE OF FORCE

- f.** The supervisor shall review any video recording of the incident, if available, prior to the completion of the UOFR and the approval of the officer's reports
- g.** The supervisor investigating the use of reportable force shall be responsible for the review and approval of the officer's reports of the incident, when practicable.
- h.** The officer will complete the UOFR prior to completing their shift, or as soon as reasonably practicable and submit it along with the officer's report to their chain of command for review.

VII. REPORTING USE OF FORCE:

- A.** Physical Force: Impact/control weapon ,CEW, O.C., Firearms
 - 1. The officer should immediately notify a supervisor, if on duty, of any use of physical force.
 - 2. In addition to required arrest and incidents reports, the officer will complete a UOFR and forward it to their immediate supervisor. That supervisor will review the UOFR to ensure completeness. The UOFR will then either be returned to the officer for corrections or forwarded to the department's use of force (UOF) instructor.
 - 3. The UOF instructor will review any and all audio/video recordings along with the UOFR to ensure the compliance with department policy and training. The UOF instructor will then forward it to the Patrol Division Lieutenant (PDL).
 - 4. The PDL will conduct a full review of the incident and submit it to the Chief of Police.
 - 5. In case of death, the Chief of Police will notify the City Manager and the State's Attorney and the Medical Examiner, when appropriate.
- B.** Individual Officer's Duty to Report:
 - 1. Officers have a duty to prevent, stop, and report any illegal and inappropriate uses of



RESPONSE TO RESISTANCE & USE OF FORCE

force by other officer's and/or supervisors. Any officer/supervisor who observes another using force that is illegal, excessive, or otherwise inconsistent with this general order must, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events and *stop* the use of force.

- a. Officer must notify a supervisor as soon as possible; and
- b. If a supervisor observes such a violation, the supervisor must issue a direct order to stop the violation.

C. Assignments:

Pending administrative review, any officer who has taken the life of another person will be removed from line-duty assignment. This action protects both the officer's and community's interest until the situation is resolved.

D. Psychological Services:

Psychological follow-up of post-deadly force or other high level force related trauma will normally be directed by the Chief of Police whenever deemed appropriate. During an internal investigation, the department will do all within its power to avoid placement of a stigma on the officer who uses deadly force in the performance of duty. Further, internal investigations of deadly force shall be of two types conducted simultaneously; first, an administrative investigation to determine whether department standards were followed; second, a criminal investigation conducted by another law enforcement agency to detect any criminal activity.

REVIEWED: SJM FEB 2012
REVIEWED: SJM FEB 2013
AMENDED: SJM APR 2014
APPROVED: SJM APR 2014
AMENDED: RMH JAN 2016
APPROVED: RMH NOV 2019

